IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL NO. 383 OF 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

==========

HASMUKHBHAI RAMBHAI PATEL - Appellant(s)
Versus
GUJARAT STATE ROAD TRANSPORT CORPORATION & ORS.-Respondents

==========

Appearance :
Shri P.R. Thakker for Appellant(s).
Ms. Maya Desai for Respondent(s) : 1 - 2.
Shri R. R. Shah for Respondent(s) : 3.
Shri Vibhuti Nanavati for Respondent(s) : 4.
None for Respondent(s) : 5.

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 11/09/2007

ORAL JUDGMENT

The appellant-claimant, being aggrieved by the award dated

18th April, 1983 passed by the learned Motor Accident Claims Tribunal (Main), Banaskantha District, Palanpur in M.A.C.P. No. 213 of 1981, is before this Court seeking enhancement on the ground that the learned Tribunal below was unjustified in holding the body disability to be 16% only when the doctor had certified that the disability was 32%, and further erred in not awarding under the head of future economic loss. It was also submitted that the learned Tribunal below also erred in not granting any benefits under the head of special diet and attendance provided by the father.

2. The learned Counsel for the respondents, on the other hand, submitted that the claimant-appellant was working as a Geologist and it has come on record that despite the injury and disability, he has not suffered any future losses. They also submitted that the learned Tribunal was absolutely justified in holding that if 32% was the disability in one leg, then, the total body disability would be 16%.

3. The applicant-claimant has not brought on record any evidence that because of the injury, his future promotion or prospects are adversely affected. It is not in dispute before me that there is no reduction in the salary, rather it has come on record that instead of the field work, the appellant has been given the table work. Nothing has been brought on record to show or suggest that a person, who is working

on the table, would not be entitled to any promotion in future. In absence of such evidence, the learned Tribunal rather was unjustified in awarding 16% future economic loss. Be that as it may. In absence of any cross appeal or cross objections by the other side, I will not interfere in the said part of the judgement.

4. It has come on record that the claimant had suffered 32% disability in the left leg. The doctor examined by the claimant-appellant has disagreed with every suggestion given to him in the cross examination, but, the learned Tribunal below has observed that such opinion of the doctor would be illegal and contrary to the medical science. The learned Tribunal has observed that if a person suffers 100% disability in one of the legs, then, the total body disability would not be 100%. If this observation and discussion made by the learned Tribunal below is to be rejected, then, we will be in a chaotic position because if a particular part of the body suffers 100% damage and that damage is to be counted as 100%, then, for different limbs and organs of the body, the disability would be 100% each, which may become more than 1000%. Such is not the law.

5. So far as the question of special diet and attendance by the father for a period of two months is concerned, I do not think that the claimant would be entitled to anything in view of the award of

Rs.27,000/-, to which he was not entitled.

6. I find no reason to interfere in the appeal. The appeal deserves to and is, accordingly, dismissed. No costs.

[R.S.Garg, J.]

*kamlesh**